

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TECMA TRANSPORTATION
SERVICES, LLC,

Plaintiff,

vs.

Case No. 2:22-cv-00456-GJf-KRS

200 SOUTH PEMBERTON, LLC,

Defendant.

**DEFENDANT 200 SOUTH PEMBERTON, LLC'S ANSWER TO
PLAINTIFF'S COMPLAINT**

COMES NOW Defendant 200 South Pemberton, LLC (hereinafter "Defendant" or "Pemberton") by and through its attorneys, Rodey, Dickason, Sloan, Akin & Robb, PA (Tyler M. Cuff and Jeffrey R. Taylor) and for its Answer to Plaintiff Tecma Transportation Services, LLC's (hereinafter "Plaintiff") Complaint states as follows:

PARTIES

1. Defendant lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 1 of Plaintiff's Complaint and therefore denies the same.
2. Defendant lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 2 of Plaintiff's Complaint and therefore denies the same.
3. Defendant admits the allegations contained in paragraph 3 of Plaintiff's Complaint.
4. Defendant admits the allegations contained in paragraph 4 of Plaintiff's Complaint.

JURISDICTION AND VENUE

5. Paragraph 5 of Plaintiff's Complaint contains legal conclusions to which no response is required. To the extent response is deemed required, Defendant denies the allegations contained in Paragraph 5 of Plaintiff's Complaint.

6. Paragraph 6 of Plaintiff's Complaint contains legal conclusions to which no response is required. To the extent a response is deemed required, Defendant denies the allegations contained in Paragraph 6 of Plaintiff's Complaint.

7. Paragraph 7 of Plaintiff's Complaint contains legal conclusions to which no response is required. To the extent a response is deemed required, Defendant denies the allegations contained in Paragraph 7 of Plaintiff's Complaint.

COUNT I

8. Defendant lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 8 of Plaintiff's Complaint and therefore denies the same.

9. Defendant lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 9 of Plaintiff's Complaint and therefore denies the same.

10. Defendant lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 10 of Plaintiff's Complaint and therefore denies the same.

11. Defendant denies the allegations contained in Paragraph 11 of Plaintiff's Complaint.

12. Defendant lacks sufficient information to form a belief as to the truth of the allegations contained in paragraph 12 of Plaintiff's Complaint and therefore denies the same.

13. Paragraph 13 of Plaintiff's Complaint contains legal conclusions to which no response is required. To the extent a response is deemed required, Defendant denies the allegations in Paragraph 13 of Plaintiff's Complaint.

COUNT II

14. Defendant incorporates by reference its responses to each preceding paragraph as though set forth fully herein.

15. Defendant lacks sufficient information to form a belief as to the truth of the allegations contained in Paragraph 15 of Plaintiff's Complaint and therefore denies the same.

16. Defendant denies the allegations in Paragraph 16 of Plaintiff's Complaint.

Defendant denies that Plaintiff is entitled to the relief set forth in the unnumbered paragraph following Paragraph 16 and beginning "WHEREFORE," including its subparagraphs 1-4.

GENERAL DENIAL

All allegations not specifically admitted are hereby denied.

AFFIRMATIVE DEFENSES

1. This court lacks subject matter jurisdiction to adjudicate this dispute and personal jurisdiction over this Defendant.

2. Venue is improper in this court.

3. The District of New Mexico is an improper forum under the doctrine of *forum non conveniens*.

4. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

5. Plaintiff's claims are barred by the principles of equity.

6. Plaintiff's claims are barred by the doctrine of unclean hands.

7. Plaintiff's claims are barred or reduced to the extent they failed to mitigate their damages.

8. Plaintiff's claims are barred or limited by offset/setoff and recoupment

9. In the event that a judgment is entered against Defendant, Defendant is entitled to reduction of the judgment to the extent of any collateral source payment.

RESERVATION OF RIGHT TO AMEND

Defendant reserves the right to assert any additional defense of which it may learn through discovery and further reserves the right to adopt and assert any defenses raised or asserted by other Defendants, if any, to this action.

THEREFORE, having fully answered, Defendant requests that Plaintiff's Complaint be dismissed, or in the alternative, that judgment be rendered in Defendant's favor, that Defendant be awarded costs and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By /s/ Jeffrey R. Taylor

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Attorneys for Defendant 200 South Pemberton LLC

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2022, I filed the foregoing pleading electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

By: /s/ Jeffrey R. Taylor

Jeffrey R. Taylor